

**UNITED STATES BANKRUPTCY COURT  
District of New Jersey**

IN RE: Eileen Marie Cunningham

Case No.: 14-32594

Judge: Christine M. Gravelle

Debtor(s)

Chapter: 13

**CHAPTER 13 PLAN AND MOTIONS**

☐ Original

☒ Modified/Notice Required

☒ Discharge Sought

☐ Motions Included

☐ Modified/No Notice Required

☐ No Discharge Sought

Date: January 4, 2017

THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE.

**YOUR RIGHTS WILL BE AFFECTED.**

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. **This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice.**

**YOU SHOULD FILE A PROOF OF CLAIM BY THE DEADLINE STATED  
IN THE NOTICE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN  
THAT MAY BE CONFIRMED, EVEN IF THE PLAN REFERS TO YOUR CLAIM**

**Part 1: Payment and Length of Plan**

a. The Debtor shall pay \$650.00 paid to date, then \$660.00 per month for the remaining 34 months of the plan to the Chapter 13 Trustee, starting on February 1, 2017 for approximately 60 months.

b. The Debtor shall make plan payments to the Trustee from the following sources:

☒

Future Earnings

☐

Other sources of funding (describe source, amount and date when funds are available):

c. Use of real property to satisfy plan obligations:

☐ Sale of real property  
Description:  
Proposed date for completion: \_\_\_\_\_

☐ Refinance of real property  
Description:  
Proposed date for completion: \_\_\_\_\_

☐ Loan modification with respect to mortgage encumbering property  
Description:  
Proposed date for completion: \_\_\_\_\_

d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☐ Other information that may be important relating to the payment and length of plan:

**Part 2: Adequate Protection**

a. Adequate protection payments will be made in the amount of \$ \_\_\_\_ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_ (creditor).

b. Adequate protection payments will be made in the amount of \$ \_\_\_\_ to be paid directly by the debtor(s) outside of the Plan, pre-confirmation to \_\_\_\_ (creditor).

**Part 3: Priority Claims (Including Administrative Expenses)**

All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
Joel R. Spivack, Esquire ~JS1654	Attorney Fees	2,000.00

**Part 4: Secured Claims**

**a. Curing Default and Maintaining Payments**

The Debtor shall pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the Debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
Central Loan Admin & R	Location: 42 Yubas Avenue, Burlington NJ 08016	6,791.39	5.00	7,075.31	1,304.19

**b. Modification**

1.) The Debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an

unsecured claim.

**NOTE: A modification under this section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to Be Paid
-NONE-							

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

**c. Surrender**

Upon confirmation, the stay is terminated as to surrendered collateral. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
-NONE-			

**d. Secured Claims Unaffected by the Plan**

The following secured claims are unaffected by the Plan:

Creditor  
Consumer Portfolio Services, Inc. (CPS)

**e. Secured Claims to be paid in full through the Plan**

Creditor	Collateral	Total Amount to be Paid through the Plan
-NONE-		

**Part 5: Unsecured Claims**

a. **Not separately classified** Allowed non-priority unsecured claims shall be paid:

\_\_\_\_\_ Not less than \$\_\_\_\_\_ to be distributed *pro rata*

\_\_\_\_\_ Not less than \_\_\_ percent

  X   *Pro Rata* distribution from any remaining funds

b. **Separately Classified Unsecured Claims** shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
-NONE-			

**Part 6: Executory Contracts and Unexpired Leases**

All executory contracts and unexpired leases are rejected, except the following, which are assumed:

Creditor	Nature of Contract or Lease	Treatment by Debtor

## Part 7: Motions

**NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, Notice of Chapter 13 Plan Transmittal, within the time and in the manner set forth in D.N.J. LBR 3015-1. A Certification of Service must be filed with the Clerk of Court when the plan and transmittal notice are served.**

### a. Motion to Avoid Liens under 11 U.S.C. Section 522(f).

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided
-NONE-							

### b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured.

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount of Lien to be Reclassified
-NONE-		

### c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured.

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured
-NONE-			

## Part 8: Other Plan Provisions

### a. Vesting of Property of the Estate

- ☒ Upon Confirmation  
☐ Upon Discharge

### b. Payment Notices

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

### c. Order of Distribution

The Trustee shall pay allowed claims in the following order:

- 1) Trustee Commissions
- 2) Other Administrative Claims

- 3) Secured Claims
- 4) Lease Arrearages
- 5) Priority Claims
- 6) General Unsecured Claims

**d. Post-petition claims**

The Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

**e. Other Provisions:**

**Part 9 : Modification**

If this plan modifies a plan previously filed in this case, complete the information below.  
Date of Plan being modified: November 5, 2014.

Explain below <b>why</b> the Plan is being modified.	Explain below <b>how</b> the Plan is being modified
Debtor's pension loan has been paid, but debtor's mandatory deductions from the paystub have increased; Debtor's mortgage payment has increased and other living expenses have increased, such as automobile, health/medical, transportation and insurance expense	Plan is modified to reflect that the pension loan has been paid, and therefore the plan is no longer a step-up plan. The Plan also reflects the Debtor's increased living expenses and changes to the Debtor's income. The auto lease with American Honda Finance ended, and the same vehicle was rolled over into a finance with CPS who are unaffected by this Plan. Lastly, the Plan reflects the mortgage arrears as state on the Proof of Claim filed by Cenlar FSB.

Are Schedules I and J being filed simultaneously with this modified Plan? ☒ Yes ☐ No

**Part 10: Sign Here**

The debtor(s) and the attorney for the debtor (if any) must sign this Plan.

Date January 4, 2017 /s/ Joel R. Spivack, Esquire  
Joel R. Spivack, Esquire  
Attorney for the Debtor

I certify under penalty of perjury that the foregoing is true and correct.

Date: January 4, 2017 /s/ Eileen Marie Cunningham  
Eileen Marie Cunningham  
Debtor

Date: \_\_\_\_\_  
Joint Debtor

**Certificate of Notice Page 6 of 7**  
 United States Bankruptcy Court  
 District of New Jersey

In re:  
 Eileen Marie Cunningham  
 Debtor

Case No. 14-32594-CMG  
 Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0312-3

User: admin  
 Form ID: pdf901

Page 1 of 2  
 Total Noticed: 27

Date Rcvd: Jan 05, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 07, 2017.

db  
 515155425 +Eileen Marie Cunningham, 42 Yubas Avenue, Burlington, NJ 08016-1102  
 Acs/slma/town Center, C/o Acs, Utica, NY 13501  
 515155426 +American Express, Po Box 3001, 16 General Warren Blvd, Malvern, PA 19355-1245  
 515284561 American Express Centurion Bank, c o Becket and Lee LLP, POB 3001, Malvern, PA 19355-0701  
 515155428 ++BANK OF AMERICA, PO BOX 982238, EL PASO TX 79998-2238  
 (address filed with court: Bank Of America, Attention: Recovery Department,  
 4161 Piedmont Pkwy., Greensboro, NC 27410)  
 515304812 +Bank of America, N.A., P O Box 982284, El Paso, TX 79998-2284  
 515284562 Capital One, N.A., c o Becket and Lee LLP, POB 3001, Malvern, PA 19355-0701  
 515155430 Deidre Palladino, Business Office Facilitator, 902 Jacksonville Road,  
 Burlington, NJ 08016-3896  
 515155435 +Masonic Home of New Jersey, 902 Jacksonville Road, Burlington, NJ 08016-3896  
 515190503 +NAVIENT/BLUE RIDGE FUNDING on behalf of New, Jersey HESAA, c/o New Jersey HESAA,  
 PO BOX 548, Trenton, NJ 08625-0548  
 515345493 +New Jersey Housing & Mortgage Finance Agency, Cenlar FSB, 425 Phillips Boulevard,  
 Ewing, NJ 08618-1430  
 515155437 ++STATE OF NEW JERSEY, DIVISION OF TAXATION BANKRUPTCY UNIT, PO BOX 245,  
 TRENTON NJ 08646-0245  
 (address filed with court: State of New Jersey, Department of the Treasury,  
 Division of Taxation, PO Box 269, Trenton, NJ 08695-0269)

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
 smg E-mail/Text: usanj.njbankr@usdoj.gov Jan 05 2017 23:49:24 U.S. Attorney, 970 Broad St.,  
 Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534

smg +E-mail/Text: ustpregion03.ne.ecf@usdoj.gov Jan 05 2017 23:49:21 United States Trustee,  
 Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100,  
 Newark, NJ 07102-5235  
 515189727 E-mail/Text: ebnbankruptcy@ahm.honda.com Jan 05 2017 23:49:30  
 American Honda Finance Corporation, National Bankruptcy Center, P.O. Box 168088,  
 Irving, TX 75016-8088, 866-716-6441  
 515155427 E-mail/Text: ebnbankruptcy@ahm.honda.com Jan 05 2017 23:49:30 American Honda Finance,  
 Po Box 168088, Irving, TX 75016  
 515213390 +E-mail/Text: g20956@att.com Jan 05 2017 23:49:54 AT&T Mobility II LLC,  
 % AT&T Services, Inc, Karen Cavagnaro, Paralegal, One AT&T Way, Room 3A104,  
 Bedminster, NJ 07921-2693  
 515375452 +E-mail/Text: bncmail@w-legal.com Jan 05 2017 23:49:31 COMENITY CAPITAL BANK/PAYPAL CREDIT,  
 C/O WEINSTEIN & RILEY, P.S., 2001 WESTERN AVENUE, STE 400, SEATTLE, WA 98121-3132  
 515155429 +E-mail/Text: kzoepfel@credit-control.com Jan 05 2017 23:49:24 Central Loan Admin & R,  
 425 Phillips Bv, Ewing, NJ 08618-1430  
 515164461 E-mail/Text: mrdiscen@discover.com Jan 05 2017 23:48:44 Discover Bank,  
 DB Servicing Corporation, PO Box 3025, New Albany, OH 43054-3025  
 515155431 +E-mail/Text: mrdiscen@discover.com Jan 05 2017 23:48:44 Discover Fin Svcs Llc,  
 Po Box 15316, Wilmington, DE 19850-5316  
 515155432 +E-mail/PDF: gecsedirecoverycorp.com Jan 05 2017 23:45:59 GECRB/Lowes,  
 Attention: Bankruptcy Department, Po Box 103104, Roswell, GA 30076-9104  
 515155434 E-mail/Text: cio.bncmail@irs.gov Jan 05 2017 23:49:03 Internal Revenue Service,  
 PO Box 21126, Philadelphia, PA 19114  
 515155436 +E-mail/Text: ustpregion03.ne.ecf@usdoj.gov Jan 05 2017 23:49:21 Office of the U.S. Trustee,  
 District of New Jersey, U.S. Department of Justice, One Newark Center, Suite 2100,  
 Newark, NJ 07102-5217  
 515377123 E-mail/PDF: PRA\_BK2\_CASE\_UPDATE@portfoliorecovery.com Jan 06 2017 00:04:46  
 Portfolio Recovery Associates, LLC, c/o Lowes, POB 41067, Norfolk VA 23541  
 515377078 E-mail/PDF: PRA\_BK2\_CASE\_UPDATE@portfoliorecovery.com Jan 05 2017 23:52:04  
 Portfolio Recovery Associates, LLC, c/o Qcard, POB 41067, Norfolk VA 23541  
 515155438 +E-mail/PDF: gecsedirecoverycorp.com Jan 05 2017 23:46:35 Synch/qvc, Po Box 965018,  
 Orlando, FL 32896-5018

TOTAL: 15

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*

515330218\* American Express Centurion Bank, c o Becket and Lee LLP, POB 3001, Malvern, PA 19355-0701  
 515155433\* ++INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATIONS, PO BOX 7346,  
 PHILADELPHIA PA 19101-7346  
 (address filed with court: Internal Revenue Service, Special Procedures Branch,  
 Bankruptcy Section, PO Box 724, Springfield, NJ 07081-0724)

TOTALS: 0, \* 2, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address  
 pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

District/off: 0312-3

User: admin  
Form ID: pdf901

Page 2 of 2  
Total Noticed: 27

Date Rcvd: Jan 05, 2017

\*\*\*\*\* BYPASSED RECIPIENTS (continued) \*\*\*\*\*

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Jan 07, 2017

Signature: /s/Joseph Speetjens

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## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 4, 2017 at the address(es) listed below:

Albert Russo docs@russotrustee.com  
Albert Russo (NA) on behalf of Trustee Albert Russo docs@russotrustee.com  
Denise E. Carlon on behalf of Creditor New Jersey Housing & Mortgage Finance Agency  
bankruptcynotice@zuckergoldberg.com, bkgroup@kmlawgroup.com  
Joel R. Spivack on behalf of Debtor Eileen Marie Cunningham joel@spivacklaw.com,  
admin@spivacklaw.com  
Joshua I. Goldman on behalf of Creditor New Jersey Housing & Mortgage Finance Agency  
jgoldman@kmlawgroup.com, bkgroup@kmlawgroup.com

TOTAL: 5